

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 1. RULES AND THE RULEMAKING PROCESS

CHAPTER 6. GOVERNOR'S REGULATORY REVIEW COUNCIL

Editor's Note: The following Notice of Final Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 2764.) The Governor's Office authorized the notice to proceed through the rulemaking process on June 4, 2012.

[R13-139]

PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
Article 1	Amend
R1-6-101	Amend
R1-6-102	Amend
R1-6-103	Amend
R1-6-104	Renumber
R1-6-104	Amend
R1-6-105	Repeal
R1-6-106	Repeal
R1-6-107	Renumber
R1-6-108	Renumber
R1-6-109	Renumber
R1-6-110	Renumber
R1-6-111	Renumber
R1-6-112	Renumber
R1-6-113	Renumber
R1-6-114	Renumber
R1-6-115	Renumber
Article 2	Amend
R1-6-201	Renumber
R1-6-201	Amend
R1-6-202	New Section
R1-6-203	Renumber
R1-6-203	Amend
R1-6-204	Renumber
R1-6-204	Amend
R1-6-205	Renumber
R1-6-205	Amend
R1-6-206	Renumber
R1-6-206	Amend
R1-6-207	New Section
Article 3	Amend
R1-6-301	Renumber
R1-6-301	Amend
R1-6-302	Renumber
R1-6-302	Amend
R1-6-303	Renumber
R1-6-303	Amend
R1-6-304	Renumber
R1-6-304	Amend

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R1-6-305	New Section
Article 4	Amend
R1-6-401	Renumber
R1-6-401	Amend
Article 5	Amend
R1-6-501	Renumber
R1-6-501	Amend
R1-6-502	Renumber
R1-6-502	Amend
Article 6	New Article
R1-6-601	Renumber
R1-6-601	Amend
Article 7	New Article
R1-6-701	Renumber
R1-6-701	Amend
Article 8	New Article
R1-6-801	New Section
R1-6-802	New Section

2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 41-1051(E)

Implementing statutes: A.R.S. §§ 41-1008(E) and (G), 41-1027, 41-1055(E)

3. The effective date of the rule:

October 5, 2013

4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notice of Rulemaking Docket Opening: 18 A.A.R. 1502, June 29, 2012

Notice of Proposed Rulemaking: 19 A.A.R. 806, April 26, 2013

5. The agency's contact person who can answer questions about the rulemaking:

Name: Scott Cooley
Address: 100 N. 15th Ave., Suite 402
Phoenix, AZ 85007
Telephone: (602) 542-2058
Fax: (602) 542-1486
E-mail: scott.cooley@azdoa.gov
Web site: <http://grrc.az.gov>

6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The Governor's Regulatory Review Council (Council) is amending the rules in 1 A.A.C. 6 to implement changes made to the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) by HB 2744 in 2012, Second Regular Session (Laws 2012, Ch. 352). The rulemaking will make citation references consistent with current statute and improve the clarity and conciseness of the rules. In addition, the Council is updating the rules to complete actions proposed in the last five-year review report, approved on July 7, 2009.

Laws 2012, Chapter 352 added statutory provisions related to expedited rulemaking and provided new avenues for requesting action from the Council. A new section added by this rulemaking establishes the procedures for a person submitting an expedited rule under A.R.S. § 41-1027 (R1-6-202). Three other new sections add petition or request procedures relating to an extension of the two year time period under A.R.S. § 41-1008(E) for charging or receiving a fee established or increased by exempt rulemaking (R1-6-801), establishment under A.R.S. § 41-1008(G) of an expiration date that is different than the two year or the extended expiration date (R1-6-802), and the Council determining whether an agency is required to file an economic, small business and consumer impact statement under A.R.S. § 41-1055(E) (R1-6-207).

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

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8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. A summary of the economic, small business, and consumer impact:

The primary economic impact of the rules is from providing procedures necessary to implement recent statutory changes. A new section added by this rulemaking establishes the procedures for a person submitting an expedited rule under A.R.S. § 41-1027 (R1-6-202). Three other new sections add petition or request procedures relating to an extension of the two year time period under A.R.S. § 41-1008(E) for charging or receiving a fee established or increased by exempt rulemaking (R1-6-801), establishment under A.R.S. § 41-1008(G) of an expiration date that is different than the two year or the extended expiration date (R1-6-802), and the Council determining whether an agency is required to file an economic, small business and consumer impact statement under A.R.S. § 41-1055(E) (R1-6-207). Additional changes to clarify existing rules should have a beneficial economic impact on all users of the rules. The rulemaking will apply to all state agencies subject to Council review, currently estimated at 110 agencies. The rulemaking will also apply to members of the public filing appeals with the Council or making comments, including objections under A.R.S. § 41-1027(E), on a rulemaking or five-year review report submitted to the Council.

The economic impact of the rulemaking is expected to be minimal (less than \$1,000) for all persons involved in the rulemaking, five-year review, and appeal processes. The rules establishing procedures for filing a new petition or request make the most efficient use of staff resources while providing necessary information to the Council in a timely fashion.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

Other than minor grammatical, formatting, or clarifying changes made at the request of GRRC staff, no changes have been made to the proposed rules.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

The agency solicited comments from stakeholders prior to the formal comment period and addressed all comments received, incorporating many of the changes suggested by stakeholders into the Notice of Proposed Rulemaking. The agency did not receive any written comments during the formal comment period and no one attended the oral proceeding held on May 29, 2013.

12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rules do not require issuance of a regulatory permit, license or agency authorization.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

There is no corresponding federal law that is applicable. The rules are being promulgated under state law.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

None

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

14. Whether the rules were previously made, amended or repealed as emergency rules. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

The rules were not previously made as emergency rules.

15. The full text of the rules follows:

TITLE 1. RULES AND THE RULEMAKING PROCESS

CHAPTER 6. GOVERNOR'S REGULATORY REVIEW COUNCIL

ARTICLE 1. GENERAL RULES OF PROCEDURE

Section

- R1-6-101. Definitions
R1-6-102. Meetings
R1-6-103. Schedule and Filing Submission Deadlines
~~R1-6-110~~R1-6-104. Appearance by the Agency
R1-6-105. Submitting a Proposed Summary Rule-Repealed
R1-6-106. Placing a Final Summary Rule on the Council Agenda Repealed

ARTICLE 2. ~~DELEGATION AGREEMENTS~~ RULEMAKING PROCEDURES

Section

- ~~R1-6-104~~R1-6-201. Placing Submitting a Regular Rule on the Council Agenda
~~R1-6-202.~~ Submitting an Expedited Rule
~~R1-6-112~~R1-6-203. Oral Testimony and Written Comments
~~R1-6-107~~R1-6-204. Submitting an Approved Regular or Expedited Rules Rule with Changes
~~R1-6-108~~R1-6-205. Filing a Regular or Expedited Rules Rule Approved by the Council
~~R1-6-109~~R1-6-206. Returned Rules and Five-year Review Reports
R1-6-207. Petition Regarding an Economic, Small Business and Consumer Impact Statement under A.R.S. § 41-1055(E)

**ARTICLE 3. ~~AGENCY PRACTICE OR SUBSTANTIVE POLICY STATEMENTS~~
FIVE-YEAR REVIEW REPORTS**

Section

- ~~R1-6-111~~R1-6-301. Five-year Review Report
~~R1-6-113~~R1-6-302. Rescheduling a Five-year Review Report
~~R1-6-114~~R1-6-303. Extension to File of the Due Date for a Five-year Review Report
~~R1-6-115~~R1-6-304. Petition under A.R.S. § 41-1056(FM) for an Agency to Consider Including an Obsolete Rule in a Scheduled Five-year Review Report with Recommendation for Repeal
R1-6-305. Returned Five-year Review Reports

**ARTICLE 4. ~~APPEALS OF ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENTS~~
APPEAL OF A DELEGATION AGREEMENT**

Section

- ~~R1-6-201~~R1-6-401. Appeal of a Delegation Agreement

ARTICLE 5. ~~EARLY REVIEW PETITION~~ PETITION FOR REVIEW OR APPEAL OF AN AGENCY PRACTICE OR SUBSTANTIVE POLICY STATEMENT

- ~~R1-6-301~~R1-6-501. Petition for Council Rulemaking or Review
~~R1-6-302~~R1-6-502. Appeal of an Existing Agency Practice or Substantive Policy Statement

**ARTICLE 6. APPEAL OF AN ECONOMIC, SMALL BUSINESS, AND
CONSUMER IMPACT STATEMENT**

Section

- ~~R1-6-401~~R1-6-601. Appeal of an Economic, Small Business, and Consumer Impact Statement

ARTICLE 7. EARLY REVIEW PETITION

Section

- ~~R1-6-501~~R1-6-701. Early Review Petition of a Proposed Rule

**ARTICLE 8. REQUEST OR PETITION REGARDING A FEE ESTABLISHED OR
INCREASED BY EXEMPT RULEMAKING**

Section

- R1-6-801. Request for Extension of the Two Year Time Period under A.R.S. § 41-1008(E) for Charging or Receiving a Fee Established or Increased by Exempt Rulemaking

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R1-6-802. Petition for an Alternative Expiration Date under A.R.S. § 41-1008(G)

ARTICLE 1. GENERAL RULES OF PROCEDURE

R1-6-101. Definitions

- A. The definitions in A.R.S. § 41-1001 apply to this Chapter.
- B. In this Chapter:
1. "Agency head" means the chief officer of an agency or another person directly or indirectly purporting to act on behalf or under the authority of the agency head.
 2. "Chair" means the chairperson of the Council or the chairperson's designee.
 3. "Electronic copy" means a document submitted or filed by e-mail or CD.
 4. "Expedited rule" means a rule made according to the procedures in A.R.S. §§ 41-1027 and 41-1053.
 - ~~4.5. "Open Meeting Law" means A.R.S. §§ 38-431 through 38-431.09 Title 38, Chapter 3, Article 3.1.~~
 6. "Paper copy" means a document submitted on paper.
 - ~~5-7. "Regular rule" means a rule made according to the procedures in A.R.S. §§ 41-1021, 41-1022 through 41-1025 41-1024, 41-1028 through 41-1032, 41-1035, and 41-1052, and 41-1055.~~

R1-6-102. Meetings

- A. The Chair, in consultation with the Council, shall set ~~regular~~ monthly meeting dates of the Council for each calendar year by the preceding October 31 and shall post notice of each ~~regular~~ monthly meeting according to the Open Meeting Law.
- B. The Chair or Council may schedule a special meeting to consider any matter it may consider at a ~~regular~~ regularly scheduled monthly meeting. The Council shall post notice of a special meeting according to the Open Meeting Law at least 24 hours before the special meeting.
- C. The Council may recess a ~~regular~~ regularly scheduled monthly or special meeting to a later date if, before recessing, the Chair gives notice of the date and time of the resumption of the meeting and posts a notice of resumption of the meeting according to the Open Meeting Law.
- D. The Chair may temporarily adjourn or recess a regularly scheduled monthly or special meeting on the meeting day in an effort to ensure that a quorum of the Council is present.

R1-6-103. Schedule and Filing Submission Deadlines

The Chair, in consultation with Council, shall establish for each calendar year, by the preceding October 31, a schedule containing filing submission deadlines based on the meeting dates established under R1-6-102 for:

1. Rules submitted or, if applicable, resubmitted to the Council including new, amended, repealed, or renumbered rules; and
2. Five-year review reports.

~~R1-6-110~~**R1-6-104. Appearance by the Agency**

- A. A representative of an agency shall appear at the Council meeting at which the ~~agency~~ agency's rule or five-year review report is to be considered for legal action to respond to questions ~~and comments~~ by the Council.
- B. If an agency representative fails to appear at the Council meeting at which the ~~agency~~ agency's rule or five-year review report is considered for legal action, the Council may:
1. Reschedule consideration of the rule or report;
 2. Return ~~the~~ a regular rule or report, in whole or in part, to the agency; ~~or~~
 3. Approve ~~the~~ a regular rule or report, in whole or in part, after allowing public comment, if any;
 4. For an expedited rule, approve the rule, reject the rule, order the initiation of regular rulemaking, or provide comments on the expedited rule to the agency within the scope of A.R.S. § 41-1027(A) and require the agency to respond to comments or testimony in writing.

R1-6-105. Submitting a Proposed Summary Rule Repealed

~~To submit a proposed summary rule, an agency shall deliver to the Council office one copy of the following items, assembled in the following order and prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State:~~

- ~~1. Notice of Proposed Summary Rulemaking, including the preamble, table of contents for the proposed summary rulemaking, and text of the proposed summary rule filed with the Office of the Secretary of State as required by A.R.S. § 41-1027(B); and~~
- ~~2. Statute that repeals or supersedes the authority under which the original rule was enacted or the statute that is repeated verbatim in the original rule or proposed summary rule.~~

R1-6-106. Placing a Final Summary Rule on the Council Agenda Repealed

~~A. To place a final summary rule on the Council agenda, an agency shall deliver to the Council office the following items, prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State:~~

- ~~1. The cover letter described in subsection (B)(1);~~
- ~~2. Four paper copies of the Notice of Final Summary Rulemaking in subsection (B)(2) and the economic, small business, and consumer impact statement in subsection (B)(3);~~

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3. ~~One original and three paper copies of an agency certificate prepared as provided in A.A.C. R1-1-105, except that the statement in A.A.C. R1-1-105(A)(3)(f) that no changes have been made since the Council approved the rule shall be omitted;~~
4. ~~Two paper copies of an agency receipt prepared as provided in A.A.C. R1-1-106; and~~
5. ~~A computer disk or CD that contains all the items listed in subsection (B) and the general and specific statutes authorizing the rule; or~~
6. ~~A computer disk or CD that contains the Notice of Final Summary Rulemaking in subsection (B)(2) and an electronic copy of all the items listed in subsection (B) and the general and specific statutes authorizing the rule.~~
- B.** ~~An agency shall ensure that the rule package contains the following items assembled in the following order:~~
 1. ~~Cover letter signed by the agency head specifying:~~
 - a. ~~The close of record date;~~
 - b. ~~Whether the rulemaking relates to a five-year review report and, if applicable, the date the report was approved by the Council;~~
 - c. ~~Whether an immediate effective date is requested for the rule under A.R.S. § 41-1032;~~
 - d. ~~A certification that the preamble discloses a reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule; and~~
 - e. ~~A list of all items enclosed.~~
 2. ~~Notice of Final Summary Rulemaking, required by A.A.C. R1-1-801, including the preamble, table of contents for the final summary rulemaking, and text of each final summary rule;~~
 3. ~~Economic, small business, and consumer impact statement that:~~
 - a. ~~Contains the information required by A.R.S. § 41-1055 or a statement that the rulemaking is exempt from this requirement under A.R.S. § 41-1055(D)(2); and~~
 - b. ~~If applicable, contains an explanation of why repeal of the obsolete rule does not increase the cost of compliance under A.R.S. § 41-1027(A)(3).~~
- C.** ~~In addition to the items specified in subsection (B), an agency shall submit one copy of all written comments received by the agency concerning the proposed summary rule and any analysis submitted to the agency that compares the rule's impact on the competitiveness of businesses in this state to the impact on businesses in other states.~~

ARTICLE 2. DELEGATION AGREEMENTS RULEMAKING PROCEDURES

R1-6-104R1-6-201. Placing Submitting a Regular Rule on the Council Agenda

- A.** ~~To place~~ submit a regular rule ~~on the for consideration by the Council agenda,~~ an agency shall deliver to the Council office ~~two rule packages~~ one paper copy and one electronic copy of each rulemaking document that follows, prepared in the manner required by this ~~Chapter subsection, subsection (B),~~ and the rules of the Office of the Secretary of State. ~~The agency shall ensure that each rule package contains the following items assembled in the following order:~~
 1. ~~Cover letter~~ A request for approval, in the form of an original cover letter signed by the agency head. The cover letter shall specify:
 - a. ~~The close of record date;~~
 - b. ~~Whether definitions of terms contained in statutes or other rules and used in the rule are attached;~~
 - c. ~~Whether the rulemaking activity relates to a five-year review report and, if applicable, the date the report was approved by the Council;~~
 - d. ~~Whether the rule contains establishes a new fee and, if it does, citation of the statute expressly authorizing the new fee;~~
 - e. ~~Whether the rule contains a fee increase;~~
 - f. ~~Whether an immediate effective date is requested for the rule under A.R.S. § 41-1032;~~
 - g. ~~A certification that the preamble discloses a reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule;~~
 - h. ~~If one or more full-time employees are necessary to implement and enforce the rule, a certification that the preparer of the economic, small business, and consumer impact statement has notified the Joint Legislative Budget Committee of the number of new full-time employees necessary to implement and enforce the rule; and~~
 - i. ~~A list of all items documents enclosed.~~
 2. ~~Notice of Final Rulemaking, required by A.A.C. R1-1-602, including the preamble, table of contents for the rulemaking, and text of each rule;~~
 3. ~~Economic, small business, and consumer impact statement that contains the information required by A.R.S. § 41-1055;~~
 4. ~~Copy of the existing rule if the entire existing rule is not shown as part of the revised text of a rule the agency is amending; and The written comments received by the agency concerning the proposed rule and a written record, transcript, or minutes of any testimony received if the agency maintains a written record, transcript, or minutes; and~~
 5. ~~Copy of definitions of terms, used in the rule, that are defined in statute or another rule, if any. Any analysis submitted to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the com-~~

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petitiveness of businesses in other states.

- B. In addition to the ~~items~~ documents specified required in subsection (A), an agency shall submit one electronic or paper copy of each reference document that follows of the following:
1. ~~All written comments received by the agency concerning the proposed rule and a written record, transcript, or minutes of any oral comments received if the agency maintains a written record, transcript, or minutes;~~
 - ~~2.1. Materials~~ Material incorporated by reference, if any; ~~and~~
 3. ~~Any analysis submitted to the agency that compares the rule's impact on the competitiveness of businesses in this state to the impact on businesses in other states.~~
 2. The general and specific statutes authorizing the rule, including relevant statutory definitions;
 3. If a term is defined in the rule by referring to another rule or a statute other than the general and specific statutes authorizing the rule, the statute or other rule referred to in the definition; and
 4. The existing rule if any subsections within the existing rule are designated as "no change" in the revised text of a rule the agency is amending.
- C. After a rule is placed on ~~the a~~ Council agenda, Council staff shall review the rule for compliance with the requirements of A.R.S. §§ 41-1021 through 41-1024 and 41-1052(D), (E), and (F) and this Chapter and may ask questions or suggest changes to the agency. After If the agency revises any rulemaking document in response to a question or making any suggested change, the agency shall submit the rule package one paper copy and one electronic copy of the revised rulemaking document to the Council for review, according to the schedule established by R1-6-103. office under one of the following alternatives:
1. ~~If the agency believes it is likely that the rule package will be approved by the Council without change, it shall submit:~~
 - a. ~~Four paper copies of the Notice of Final Rulemaking as specified in subsection (A)(2) and the economic, small business, and consumer impact statement as specified in subsection (A)(3);~~
 - b. ~~One original and three paper copies of an agency certificate prepared as provided in A.A.C. R1-1-105 except that the statement in A.A.C. R1-1-105(A)(3)(f) that no changes have been made since the Council approved the rule shall be omitted;~~
 - c. ~~Two paper copies of an agency receipt prepared as provided in A.A.C. R1-1-106; and~~
 - d. ~~One of the following:~~
 - i. ~~A computer disk or CD that contains the items listed in subsection (A) and the general and specific statutes authorizing the rule, or~~
 - ii. ~~A computer disk or CD that contains the Notice of Final Rulemaking specified in subsection (A)(2) and an electronic copy of all the items listed in subsection (A) and the general and specific statutes authorizing the rule; or~~
 2. ~~If the agency is uncertain whether the rule package will be approved by the Council without change, it shall submit:~~
 - a. ~~One paper copy of the Notice of Final Rulemaking in subsection (A)(2) and the economic, small business, and consumer impact statement in subsection (A)(3); and~~
 - b. ~~One of the following:~~
 - i. ~~A computer disk or CD that contains all the items listed in subsection (A) and the general and specific statutes authorizing the rule, or~~
 - ii. ~~An electronic copy of all the items listed in subsection (A) and the general and specific statutes authorizing the rule.~~
- D. After a rule is placed on ~~the a~~ Council agenda, an agency may have the rule moved to the agenda of a later meeting by having the agency head send a written notice to the Chair that includes the date of the later meeting. If the agency makes a subsequent request that the rule be moved, the Chair may grant or deny the request at the Chair's discretion.
- E. If it is necessary for a rule to be heard at more than one Council meeting, the agency shall ~~contact the Council staff to learn which rule package items the agency needs to resubmit~~ submit any revised documents for the later meeting, consistent with this Section.

R1-6-202. Submitting an Expedited Rule

- A. To submit an expedited rule for consideration by the Council, an agency shall deliver to the Council office one paper copy and one electronic copy of each rulemaking document that follows, prepared in the manner required by this subsection, subsection (B), and the rules of the Office of the Secretary of State:
1. A request for approval, in the form of an original cover letter signed by the agency head. The cover letter shall specify:
 - a. The close of record date;
 - b. An explanation of how the expedited rule meets the criteria in A.R.S. § 41-1027(A);
 - c. Whether the rulemaking activity relates to a five-year review report and, if applicable, the date the report was approved by the Council;
 - d. A certification that the preamble discloses a reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule; and

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- e. A list of all documents enclosed.
- 2. Notice of Final Expedited Rulemaking, required by A.A.C. R1-1-803, including the preamble, table of contents for the rulemaking, and text of each rule;
- 3. The written comments, including objections that the rulemaking does not meet the criteria in A.R.S. § 41-1027(A), received by the agency or contained in a notice concerning the proposed rule; and
- 4. Any analysis submitted to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.
- B.** In addition to the documents required in subsection (A), an agency shall submit one electronic or paper copy of each reference document that follows:
 - 1. Material incorporated by reference, if any;
 - 2. For a statute declared unconstitutional, the court's decision;
 - 3. The general and specific statutes authorizing the rule, including relevant statutory definitions;
 - 4. If a term is defined in the rule by referring to another rule or a statute other than the general and specific statutes authorizing the rule, the statute or other rule referred to in the definition; and
 - 5. The existing rule if any subsections within the existing rule are designated as "no change" in the revised text of a rule the agency is amending.
- C.** After a rule is placed on a Council agenda, Council staff shall review the rule for compliance with the requirements of A.R.S. §§ 41-1027, 41-1053, and this Chapter and may ask questions or suggest changes to the agency. If the agency revises any rulemaking document in response to a question or suggested change, the agency shall submit one paper copy and one electronic copy of the revised rulemaking document to the Council for review, according to the schedule established by R1-6-103.
- D.** After a rule is placed on a Council agenda, an agency may have the rule moved to the agenda of a later meeting by having the agency head send a written notice to the Chair that includes the date of the later meeting. If the agency makes a subsequent request that the rule be moved, the Chair may grant or deny the request at the Chair's discretion.

~~R1-6-112~~R1-6-203. Oral Testimony and Written Comments

- A.** Under Consistent with A.R.S. §§ ~~41-1052(H)~~ 41-1027(G) and 41-1052(I) a person may submit written comments about an agency rulemaking to the Council about an agency rulemaking within 60 30 days from Council receipt of the rulemaking. Written comments may include any visual aids or written materials supplementing planned testimony. For an expedited rulemaking, a person may submit written comments to the Council that are within the scope of A.R.S. § 41-1027(A). The date of Council receipt of the rule shall be posted on the Council's web site. Council staff shall notify the agency of any written comments received by the Council. An agency may submit a written response to the Council within 15 days of being notified by Council staff of the comment before or during the scheduled Council meeting or, if more time is needed to respond, request in writing that the rulemaking be moved to the next regularly scheduled Council meeting.
- B.** A person may ~~make oral comments~~ provide testimony about an agency regular rulemaking at a Council meeting and may request that an expedited rulemaking be removed from the consent agenda and heard by the Council under A.R.S. § 41-1052 for the purpose of providing testimony.
- C.** The Chair may limit the time allotted to each speaker and preclude repetitious ~~comments~~ testimony.
- D.** A person who provides testimony or makes submits written ~~or oral~~ comments to the Council shall:
 - 1. Ensure that the testimony or comments relate to a final rulemaking ~~filed with~~ submitted to the Council;
 - 2. Cite Address the particular provision of A.R.S. §§ ~~41-1027~~ or 41-1052(D) through (FG) that is the basis for the Council's authority to consider each issue addressed;
 - 3. State specifically how each issue relates to the particular provision ~~ited~~ addressed;
 - 4. ~~Tell what other~~ Explain the efforts the person made to communicate with the rulemaking agency about each issue; and
 - 5. If making oral comments, submit one of the following by at least 5:00 p.m. Arizona time six business days before a scheduled Council meeting: one electronic copy of, a computer disk or CD, or 10 paper copies of any visual aids or written materials supplementing the oral comments to the Council analyst assigned. The Council analyst shall forward a copy to each member of the Council, the Council's Assistant Attorney General, and the person identified as responsible for the agency's rulemaking; or Submit to Council staff one electronic copy and one paper copy of each written comment, including any visual aid or written material supplementing planned testimony; and
 - 6. If not making oral comments, submit one of the following by at least 5:00 p.m. Arizona time six business days before a scheduled Council meeting: one electronic copy, of a computer disk or CD, or 10 paper copies of any written comments to the Council analyst assigned. The Council analyst shall forward a copy to each member of the Council, the Council's Assistant Attorney General, and the person identified as responsible for the agency's rulemaking At the same time written comments are provided to the Council, provide a copy of written comments, including any visual aids or written materials supplementing planned testimony, to the agency.
- E.** If a person does not comply with materials are submitted under subsection (C)(5) or (6) fewer than six business days before the Council meeting the requirements of this Section, the Chair, in the Chair's discretion, shall consider the reason for the ~~untimely submittal~~ noncompliance, fairness to the rulemaking agency, and the best interests of the state in deter-

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mining the action to take under A.R.S. §§ 41-1027, 41-1052, or 41-1053.

R1-6-107~~R1-6-204~~. Submitting an Approved Regular or Expedited Rules Rule with Changes

- A. For ~~If~~ a final regular or expedited rule placed on the Council's agenda under R1-6-104(C)(2) and approved by the Council or placed on the Council's agenda under R1-6-104(C)(1) and is approved by the Council with changes or a final summary rule approved by the Council with changes, an agency shall deliver to the Council office within 14 calendar days after Council approval, unless a later date is arranged under subsection (B), ~~the following items~~ one paper copy and one electronic copy of each document that follows, prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State:
1. A letter identifying each change made at the direction of the Council. ~~If no changes were directed, no letter is required; and~~
 2. ~~One original and three paper copies of the~~ The following items rulemaking documents assembled in the following order:
 - a. ~~Agency certificate~~ Notice of Final Rulemaking or Notice of Final Expedited Rulemaking, as applicable; and
 - b. ~~Notice of Final Rulemaking or Notice of Final Summary Rulemaking and the economic~~ Economic, small business, and consumer impact statement, if applicable.
 3. Two copies of the receipt required by A.A.C. R1-1-106; and
 4. ~~One computer disk or CD that contains the item listed in R1-6-104(A)(2) or (B)(2).~~
- B. If an agency is unable to deliver an approved regular rule or ~~summary~~ expedited rule to the Council office within the time specified in subsection (A), the agency shall contact the Council office in writing and arrange to submit the approved rule at a later date.

R1-6-108~~R1-6-205~~. Filing a Regular or Expedited Rules Rule Approved by the Council

- A. If the Council approves a ~~Notice of Final Rulemaking or Notice of Final Summary Rulemaking~~ final regular or expedited rule as submitted, an agency shall print the Council's scanned original certificate of approval, the approved notice and, if applicable, the approved economic, small business, and consumer impact statement, transmitted by e-mail to the agency by Council staff, and the agency submits the items required by R1-6-107, the Council shall file the original and two copies of the agency's items; two copies of the agency receipt; and the computer disk or CD, with the Office of the Secretary of State the final regular or expedited rule according to the rules of the Office of the Secretary of State. The Council shall include file with the Office of the Secretary of State ~~an~~ the original and two copies of a written notice certificate of approval, specifying the Sections approved and the date of Council approval. The Council shall transmit by e-mail the Council's scanned original certificate of approval to the Office of the Secretary of State.
- B. If the Council approves a ~~preamble, table of contents for the rulemaking, rule, or economic, small business, and consumer impact statement~~ final regular or expedited rule subject to the agency making changes as directed by the Council, and the agency submits the ~~items~~ documents required by ~~R1-6-107~~ R1-6-204:
1. Council staff shall verify ~~that whether~~ each change required by the Council was made, ~~and file the items~~
 2. Once Council staff notifies the agency that the verification process is complete, the agency shall print the notice and, if applicable, the economic, small business, and consumer impact statement, approved as revised, as well as the Council's scanned original certificate of approval, transmitted by e-mail to the agency by Council staff, and file the final regular or expedited rule according to the rules of with the Office of the Secretary of State as prescribed in subsection (A). The Council shall file with the Office of the Secretary of State the original of a certificate of approval, specifying the Sections approved and the date of Council approval. The Council shall transmit by e-mail the Council's scanned original certificate of approval to the Office of the Secretary of State.
 - ~~2-3.~~ 3. If an agency submits a revised preamble, table of contents ~~for the rulemaking,~~ rule, or economic, small business, and consumer impact statement that does not contain the exact words approved by the Council, Council staff shall notify the agency and require that the items be submitted as approved or schedule the matter for reconsideration by the Council.
- C. Except as specified in subsection (B), an agency shall not make any change to a preamble, table of contents ~~for the rulemaking,~~ rule, economic, small business, and consumer impact statement, or materials incorporated by reference after Council approval.

R1-6-109~~R1-6-206~~. Returned Rules and Five-year Review Reports

- ~~A.~~ The Council may vote to return a preamble, table of contents ~~for the rulemaking,~~ rule, or economic, small business, and consumer impact statement under A.R.S. § 41-1052(C), after identifying the manner in which the returned ~~rule package item~~ portion does not meet the standards at A.R.S. § 41-1052(D) through (FG).
1. The Council may schedule a date for resubmission in consultation with the agency representative.
 2. An agency ~~resubmitting a preamble, table of contents for the rulemaking, rule,~~ shall resubmit the notice, with a revised preamble, table of contents, or rule or the economic, small business, and consumer impact statement, or both to the Council, ~~shall and attach to the each resubmitted rule package item document~~ a letter that:
 - a. Identifies all changes made in response to the Council's explanation for ~~its return of the rule package item the~~ returned portion.

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- b. Explains how the changes ensure that the ~~rule package item~~ document meets the standards at A.R.S. § 41-1052(D) through (F), and
- c. ~~Shows~~ If applicable, shows that the resubmitted rule is not substantially different from the proposed rule under the standards in A.R.S. § 41-1025.
- 3. In accordance with ~~R1-6-110~~ R1-6-104, an agency representative shall appear at the Council meeting at which the resubmitted notice, with a revised preamble, table of contents ~~for the rulemaking, or rule, or economic, small business, and consumer impact statement is to be considered for legal action.~~
- B.** ~~The Council may vote to return a five-year review report after identifying the manner in which the five-year review report does not meet the standards in A.R.S. § 41-1056(A)(1) through (9):~~
 - ~~1. The Council, in consultation with the agency, shall schedule submission of a revised report.~~
 - ~~2. An agency submitting a revised five-year review report shall attach to the revised report a letter that:~~
 - ~~a. Identifies all changes made in response to the Council's explanation for return of the five-year review report, and~~
 - ~~b. Explains how the changes ensure that the five-year review report meets the standards in A.R.S. § 41-1056(A)(1) through (9).~~

R1-6-207. Petition Regarding an Economic, Small Business and Consumer Impact Statement under A.R.S. § 41-1055(E)

- A.** Under A.R.S. § 41-1055(E), an agency may petition the Council for a determination that the agency is not required to file an economic, small business and consumer impact statement for a regular rule. The agency shall file a petition in the form of a letter, signed by the agency head. The agency representative filing the petition shall deliver to the Council office both an original and one electronic copy of the petition. The petition shall contain:
 - 1. The name, mailing address, e-mail address, telephone number, and fax number, if any, of the agency and the agency representative filing the petition;
 - 2. The statutory authority under which petition is allowed;
 - 3. A statement that the agency is seeking a determination that it is not required to file an economic, small business and consumer impact statement; and
 - 4. The reasons why the petition should be granted, based on an analysis of the factors in A.R.S. § 41-1055(E).
- B.** The petition shall be printed on one side, not exceed five double-spaced or space-and-a-half pages, and be in a clear and legible typeface from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the agency of why a different format is necessary.
- C.** The Council shall place the petition on the agenda of its next meeting if at least four Council members request that the matter be considered within 14 days after the filing of the petition. The Chair or the Chair's designee shall provide written notification to the agency that the Council is considering the petition.
- D.** Within seven calendar days after the Council's decision on the petition, the Chair shall send a letter to notify the affected agency head of the Council's decision, including the reasons for and date of the decision.

**ARTICLE 3. AGENCY PRACTICE OR SUBSTANTIVE POLICY STATEMENTS
FIVE-YEAR REVIEW REPORTS**

R1-6-110~~R1-6-301~~. Five-year Review Report

- A.** To place submit a five-year review report on the for consideration by the Council agenda, an agency shall deliver to the Council office two copies an original cover letter signed by the agency head; one set of paper documents and one set of electronic documents, prepared in the manner required by this subsection and subsections (C) and (D). The agency shall ensure that the submission contains one paper copy and one electronic copy of the five-year review report required by A.R.S. § 41-1056, including rules made pursuant to an exemption, in whole or in part, from A.R.S. Title 41, Chapter 6. Except as indicated in Consistent with subsection (B), the agency shall concisely analyze and provide the following information in the five-year review report in the following order for each rule:
 - 1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules;
 - 2. Objective of the rule, including the purpose for the existence of the rule;
 - 3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached;
 - 4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency;
 - 5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement;
 - 6. Agency view regarding current wisdom of the rule;
 - 7-6. Clarity, conciseness, and understandability of the rule;
 - 8-7. Summary of the written criticisms of the rule received by the agency within the five years immediately preceding the five-year review report, including letters, memoranda, reports, written analyses submitted to the agency questioning whether the rule is based on valid scientific or reliable principles or methods, and written allegations made in litigation or administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear,

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inconsistent with statute, or beyond the authority of the agency to enact, and the result of the litigation or administrative proceedings;

~~9-8.~~ A comparison of the ~~current~~ estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule;

~~10-9.~~ Any analysis submitted to the agency by another person ~~that compares~~ regarding the rule's impact on this state's business competitiveness ~~to the impact on~~ as compared to the competitiveness of businesses in other states;

~~11-10.~~ If applicable, ~~whether~~ how the agency completed the course of action indicated in the agency's previous five-year review report;

~~12-11.~~ A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective; ~~and~~

12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law;

13. For a rule adopted after July 29, 2010, that requires issuance of a regulatory permit, license or agency authorization, whether the rule complies with A.R.S. § 41-1037; and

~~13-14.~~ Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

B. To avoid repetition, an agency shall use a narrative format rather than a tabular format to present the information in the report. The narrative shall be organized according to the categories in subsection (A). For subsection (A)(2), the agency shall provide a specific objective, including the purpose for the existence of each individual rule. Within the remaining categories, an agency shall analyze each rule individually or, if the analysis for each rule is the same, consolidate the analysis, either by article or for all rules in the report. If the information analysis for a category regarding any of the items listed in subsection (A) is identical for any group all of the rules in a report, the agency shall discuss that information in its five-year review report only once for the group of rules specify that the analysis within that category applies to all of the rules in the report. If the analysis for a category is identical for all of the rules in an article, the agency shall specify that the analysis within that category applies to all of the rules in the article.

C. In addition to the documents required in subsection (A), an agency shall attach the following to each copy of a submit one paper copy and one electronic copy of the five-year review report cover letter. The cover letter shall provide the following information:

1- Cover letter, signed by the agency head, that identifies:

~~a-1.~~ 1. A person to contact for information regarding the report,

~~b-2.~~ 2. Any rule that is not reviewed with the intention that the rule will expire under A.R.S. § 41-1056(EJ), and

~~e-3.~~ 3. Any rule that is not reviewed because the Council rescheduled the review of the rule an article under A.R.S. § 41-1056(EH), and

2-4. Copy of the rules being reviewed. The certification that the agency is in compliance with A.R.S. § 41-1091.

D. In addition to the documents required in subsections (A) and (C), an agency shall submit one electronic copy of the following reference documents:

1. Rules being reviewed;

2. General and specific statutes authorizing the rules, including any statute that authorizes the agency to make rules; and

3. If an economic, small business, and consumer impact statement was prepared on the last making of a rule being reviewed, an agency shall attach one copy of the economic, small business, and consumer impact statement for the rule to the five-year review report.

E. After a five-year review report is placed on the a Council agenda, Council staff shall review the report for compliance with the requirements of A.R.S. § 41-1056 and this Chapter and may ask questions or suggest changes to the agency. After If the agency revises any document in response to a question making any or suggested change, the agency shall submit one paper copy and one electronic copy of the revised document to the Council office one paper copy of the five-year review report and one electronic copy of or a computer disk or CD that contains the five-year review report as specified in subsection (A), the cover letter and rules specified in subsection (C)(2), and the general and specific statutes authorizing the rules reviewed for review, according to the schedule established by R1-6-103.

F. After a five-year review report is filed placed on a Council agenda, an agency may make one request that have the report be moved to the agenda of a later meeting scheduled for no later than 60 days after the request by having the agency head send a written request notice to the Chair that includes the date of the later meeting. After If the agency makes a subsequent request to have a five-year review report moved, an agency shall address any subsequent requests to the Chair. The the Chair may grant or deny a subsequent the request at the Chair's discretion.

G. A person may submit written comments to the Council that are within the scope of subsection (A). The Council may also

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permit testimony at a Council meeting within the scope of subsection (A).

~~R1-6-113~~R1-6-302. Rescheduling a Five-year Review Report

- A. To request that a five-year review report be rescheduled under A.R.S. § 41-1056(~~CH~~), an agency head shall submit a letter to the Chair before the report is due ~~but not more than 90 days before the report is due~~ that includes the following information:
1. The ~~Title title, Chapter chapter, and Article article~~ of the rules for which rescheduling is sought;
 2. Whether the rules were initially made or substantially revised with an effective date that is within ~~the~~ two years before the due date of the report; and
 - a. If substantially revised:
 - i. A description of the revisions,
 - ii. Why the revisions are believed to be substantial, and
 - iii. The date on which the rules were published in the *Register* by the Office of the Secretary of State and the effective date of the rules; or
 - b. If initially made, the date on which the rules were published in the *Register* by the Office of the Secretary of State and the effective date of the rules.
- B. The Chair ~~or the Chair's designee~~, in the Chair's ~~or Chair's designee's~~ discretion, may grant the rescheduling of a five-year review report if all rules within an ~~Article article~~ meet the requirements of this Section.
- C. The Chair may, on the Chair's own initiative, reschedule a five-year review report if all rules within an article meet the requirements of this Section.

~~R1-6-114~~R1-6-303. Extension to File of the Due Date for a Five-year Review Report

- A. An agency may obtain an extension of 120 days to ~~file~~ submit a five-year review report by filing a written notice of extension with the Council before the due date of the report. The agency shall specify in the notice the reason for the extension.
- B. An agency may, as an alternative, request one a longer extension that is of more than 120 days but less than 181 does not exceed 180 days to file the report by sending a written request to the Chair at least 40 days prior to the due date of the report. The agency shall specify the length of the requested extension and the reason for the requested extension.
1. A request for an extension ~~of that is~~ more than 120 days but ~~less than 181 does not exceed 180 days~~ shall be placed on the agenda of a Council meeting scheduled to occur prior to the due date of the report.
 2. Council shall consider the reason for the requested extension request and may grant a request for an extension that is ~~greater more than 120 days but shall not grant an extension request that exceeds~~ does not exceed 180 days.

~~R1-6-115~~R1-6-304. Petition under A.R.S. § 41-1056(~~FM~~) for an Agency to Consider Including an Obsolete Rule in a Scheduled Five-year Review Report with Recommendation for Repeal

- A. A person shall file a petition under A.R.S. § 41-1056(~~FM~~) at least 60 days before the original due date of the five-year review report in which the rule is scheduled to be reviewed. The person filing the petition shall deliver to the Council office ~~one both of the following: an original and one electronic copy, a computer disk or CD, or one paper copy of a petition in the form of a letter.~~ The petition shall be signed by the person filing the petition, and shall contain:
1. The name, mailing address, e-mail address, and fax and telephone numbers of the person filing the petition;
 2. The name of the person being represented by the person filing the petition, if applicable;
 3. A statement of why the rule is obsolete and should be repealed; and
 4. A statement of how the person is regulated or could be regulated by the rule.
- B. The petition shall be printed on one side, not exceed five double-spaced or space-and-a-half pages, and shall be in ~~Arial~~ a clear and legible typeface of no less than from 9 to 12 point.
- C. The Council shall notify the agency head of the petition by 5:00 p.m. of the business day following ~~Council~~ receipt of the petition. Within 14 days of the date the petition is filed the agency shall file an original and one electronic copy, a computer disk or CD, or one paper copy of a response, in the form of a letter, signed by the agency head, to the petition that either:
1. Indicates the agency will consider including the ~~obsolete~~ rule in the five-year review report with a recommendation for repeal, or
 2. Includes a statement of why the rule is not obsolete and should not be repealed.
- D. The Council shall schedule the petition for the next Council meeting as soon as practicable after receipt of the agency's response under subsection (C) if the agency's response states that the rule is not obsolete and should not be repealed.
- E. Within seven calendar days after the Council's decision on the petition, the Chair ~~or the Chair's designee~~, shall send a letter to the affected agency head and the person filing the petition advising them of the Council's decision, including the reasons for and date of the decision.

R1-6-305. Returned Five-year Review Reports

The Council may vote to return, in whole or in part, a five-year review report after identifying the manner in which the five-year review report does not meet the standards in A.R.S. § 41-1056(A).

1. The Council, in consultation with the agency, shall schedule submission of a revised report.

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2. An agency submitting a revised five-year review report shall attach to the revised report a letter that:
 - a. Identifies all changes made in response to the Council's explanation for return of the five-year review report, and
 - b. Explains how the changes ensure that the five-year review report meets the standards in A.R.S. § 41-1056(A).

ARTICLE 4. ~~APPEALS OF ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENTS~~
APPEAL OF A DELEGATION AGREEMENT

~~R1-6-201~~R1-6-401. Appeal of a Delegation Agreement

- A. Under A.R.S. § 41-1081(F), a person ~~who appeals an agency~~ appealing an agency's decision to enter into a delegation agreement shall ~~deliver to file in~~ file in the Council office ~~one an original and one electronic copy written request of an appeal.~~ The appeal shall consist of an original letter, signed by the person submitting filing the appeal, and eight paper copies or one electronic copy of, or a computer disk that contains, the request. The person submitting the appeal shall that include includes the following ~~in the request~~:
 1. All written objections to the delegation agreement submitted to the delegating agency by the person filing the appeal;
 2. The name, mailing address, and e-mail address of each agency and each political subdivision entering into the delegation agreement;
 3. The name, mailing address, e-mail address, and fax and telephone numbers of the person filing the appeal;
 4. The name of the person being represented by the person filing the appeal, if applicable;
 5. The subject matter of the delegation agreement; and
 6. The reasons why the person is objecting to the delegation agreement and filing the appeal.
- B. The head of an agency whose delegation agreement is being appealed shall ~~deliver to file in~~ file in the Council office ~~one an original and one electronic copy and eight paper copies or one electronic copy of a response. The response shall contain an original transmittal letter, signed by the agency head and, or a computer disk that contains~~ the following:
 1. A memorandum that ~~lists~~ includes:
 - a. ~~the~~ The date the delegating agency gave written notice of the decision to enter into the delegation agreement ~~and the~~;
 - b. The dates of all public proceedings regarding the delegation agreement; and
 - ~~2-c.~~ The name, mailing address, e-mail address, and fax and telephone numbers of each agency and each political subdivision contact person;
 - ~~3-2.~~ The delegation agreement; and
 - ~~4-3.~~ A The agency's written summary, prepared ~~by the agency as required by A.R.S. § 41-1081(E),~~ responding to all oral or written comments received by the agency regarding the delegation agreement.
- C. The appeal and response letters in subsections (A) and (B) and the memorandum in subsection (B)(1) shall each be printed on one side, not exceed five double-spaced or space-and-a-half pages, and be in a clear and legible typeface from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the person or agency of why a different format is necessary.
- ~~C-D.~~ The Council shall notify the delegating agency head of an appeal of a delegation agreement by 5:00 p.m. of the business day following ~~Council~~ receipt of the appeal letter. The agency head shall ~~deliver to file in~~ file in the Council office the information and documents listed in subsection (B) no later than 5:00 p.m. on the third business day following notification ~~of the appeal~~ by the Council ~~of the appeal~~.
- ~~D-E.~~ Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the delegating agency head stating whether three Council members have requested that the appeal be considered at a Council meeting. If an appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.
- ~~E-F.~~ Within seven calendar days After after the Council approves or disapproves a delegation agreement that has been appealed, the Chair shall send a ~~written~~ letter to the delegating agency head and person filing the appeal that specifies the reasons for the approval or disapproval and the date of ~~the Council action~~ decision.

ARTICLE 5. ~~EARLY REVIEW PETITION~~ PETITION FOR REVIEW OR APPEAL OF AN AGENCY PRACTICE OR SUBSTANTIVE POLICY STATEMENT

~~R1-6-301~~R1-6-501. Petition for Council Rulemaking or Review

- A. A person may petition the Council under A.R.S. § 41-1033(A) for a:
 1. Rulemaking action relating to a Council rule, including making a new rule or amending or repealing an existing rule; or
 2. Review of an existing Council practice or substantive policy statement alleged to constitute a rule.
- B. To act under A.R.S. § 41-1033(A) and this Section, a person shall submit to the Council office a ~~written~~ petition, in the form of a letter, signed by the person submitting the petition, including that includes the following information:
 1. Name, mailing address, email address, telephone number, and fax number, if any, of the person submitting the petition;
 2. Name of any person represented by the person submitting the petition;

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3. If ~~requesting a~~ the petition is for rulemaking action:
 - a. Statement of the rulemaking action sought, including the ~~A.A.C.~~ Arizona Administrative Code citation of all existing rules, and the specific language of a new rule or rule amendment; and
 - b. Reasons for the rulemaking action, including an explanation of why an existing rule is inadequate, unreasonable, unduly burdensome, or unlawful;
4. If ~~requesting the petition is for~~ a review of an existing practice or substantive policy statement:
 - a. Subject matter of the existing practice or substantive policy statement, and
 - b. Reasons why the existing practice or substantive policy statement constitutes a rule; ~~and~~.
5. ~~Dated signature of the person submitting the petition.~~

C. The petition shall be printed on one side, not exceed five double-spaced or space-and-a-half pages, and be in a clear and legible typeface from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the person of why a different format is necessary.

~~E.D.~~ A person may submit supporting information with a petition, including:

1. Statistical data; and
2. A list of other persons likely to be affected by the rulemaking action or the review, with an explanation of the likely effects.

~~D.E.~~ The Council shall send a letter in response to the person submitting a petition ~~a written response~~ within 60 calendar days of the date the Council receives the petition.

~~R1-6-302~~R1-6-502. Appeal of an Existing Agency Practice or Substantive Policy Statement

A. Under A.R.S. § 41-1033(B), A person appealing may appeal an agency's final decision regarding a petition for review of an existing agency practice or substantive policy statement, filed under A.R.S. § 41-1033(B). The person shall deliver to file with the Council office one an original and eight paper copies or one electronic copy of, or a computer disk that contains, the an appeal within 30 days after the agency gives written notice of its decision. The appeal shall consist of following:

1. A ~~request letter~~, signed by the person submitting filing the appeal, ~~that which~~ includes the following:
 - a. Name of the agency ~~upon which the appeal is taken~~;
 - b. Name, mailing address, e-mail address, telephone number, and fax number, if any, of the person filing the appeal;
 - c. Name of the person being represented by the person filing the appeal;
 - d. Subject matter of the existing agency practice or substantive policy statement being appealed; and
 - e. Reasons why the existing agency practice or substantive policy statement constitutes a rule.
2. The petition requesting a review of the agency's existing practice or substantive policy statement; and
3. The agency's written decision that is being appealed.

B. The Council shall notify the affected agency head of an appeal of an agency's decision regarding a petition for review of an existing agency practice or a substantive policy statement by 5:00 p.m. of the business day following Council receipt of the appeal. The agency shall deliver to file in the Council office the information and documents listed in subsection (C) no later than 5:00 p.m. on the third business day following notification by the Council of the appeal.

C. The head of an agency whose final decision is being appealed shall deliver to file in the Council office one an original and eight paper copies or one electronic copy of, or a computer disk that contains, a response. The response shall contain an original transmittal letter, signed by the agency head, and the following:

1. A memorandum that includes ~~the following~~:
 - a. Date the agency gave written notice of its decision under A.R.S. § 41-1033(A);
 - b. Name, mailing address, e-mail address, telephone number, and fax number, if any, of each agency contact person; and
 - c. Reasons why the agency believes that the existing agency practice or substantive policy statement does not constitute a rule.
2. The existing agency practice or substantive policy statement being appealed; and
3. If a petition other than that of the appellant was ~~filed with~~ submitted to the agency, requesting a review of the same existing practice or substantive policy statement being appealed:
 - a. The other petition, and
 - b. The agency's written decision regarding the other petition.

~~D.~~ The appeal and response letters in subsections (A)(1) and (C) and the memorandum in subsection (C)(1) shall each be printed on one side, not exceed five double-spaced or space-and-a-half pages, and be in a clear and legible typeface from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the person or agency of why a different format is necessary.

~~D.E.~~ Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the affected agency head stating whether three Council members have requested that the appeal be considered at a Council meeting. If the appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.

~~E.F.~~ Within seven calendar days after the Council decides whether the agency practice or substantive policy statement consti-

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tutes a rule, the Chair shall send a letter to the affected agency head and the person filing the appeal that specifies the decision and the reasons for and date of the Council decision.

ARTICLE 6. APPEAL OF AN ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT

R1-6-401 R1-6-601. Appeal of an Economic, Small Business, and Consumer Impact Statement

- A. A person appealing an agency's final decision on whether to initiate a rulemaking under A.R.S. § 41-1056.01(D), shall ~~deliver to file in~~ the Council office ~~one of the following: one electronic copy, a computer disk or CD, or one an original and one electronic copy and eight paper copies~~ of an appeal. The appeal shall ~~contain~~ consist of:
1. ~~A request~~ An original letter, signed by the person ~~submitting~~ filing the appeal, citing the rule or rules being appealed and:
 - a. Name of the agency upon which the appeal is taken;
 - b. Name, mailing address, e-mail address, telephone number, and fax number, if any, of the person filing the appeal;
 - c. Name of the person being represented by the person filing the appeal, if applicable;
 - d. How the person filing the appeal is or may be affected by the agency's final decision made under A.R.S. § 41-1056.01(C); and
 - e. Why the person appealing believes that:
 - i. Under A.R.S. § 41-1056.01(A)(1), the actual economic, small business, or consumer impact significantly exceeded the estimated impact; or
 - ii. Under A.R.S. § 41-1056.01(A)(2), the actual economic, small business, or consumer impact was not estimated on adoption of the rule; and the impact imposes a significant burden on persons subject to the rule; or
 - iii. Under A.R.S. § 41-1056.01(A)(3), the agency did not select the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
 2. A copy of the economic, small business, and consumer impact statement being addressed in the appeal; and
 3. The data, ~~if any~~, used by the person appealing to support the reasons listed under subsection (A)(1)(e).
- B. The Council shall notify the affected agency head of an appeal of the ~~economic impact of a rule~~ agency's decision on whether to initiate a rulemaking under A.R.S. § 41-1056.01(C) by 5:00 p.m. of the business day following ~~Council~~ receipt of the appeal. The affected agency head shall ~~deliver to file in~~ the Council office the information and documents listed in subsection (C) no later than 5:00 p.m. on the third business day following notification by the Council of the appeal.
- C. The head of an agency whose final decision is being appealed shall ~~deliver to file in~~ the Council office ~~one of the following: an original and one electronic copy, a computer disk or CD, or one original and eight paper copies~~ of a response. The response shall contain an original transmittal letter, signed by the agency head, and the following:
1. A memorandum that includes ~~the following~~:
 - a. Date of publication of the agency's final decision under A.R.S. § 41-1056.01(C);
 - b. Name, mailing address, e-mail address, telephone number, and fax number, if any, of each agency contact person;
 - c. Reasons why the agency believes that:
 - i. The actual economic, small business, and consumer impact did not significantly exceed the estimated economic, small business, and consumer impact; ~~or~~
 - ii. The actual economic, small business, and consumer impact was estimated on approval of the rule and the impact does not impose a significant burden on persons subject to the rule; or
 - iii. ~~Under A.R.S. § 41-1056.01(A)(3), the~~ The agency selected the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective; ~~and~~.
 - ~~2.~~ A copy of final judgments, if any, issued by a court of competent jurisdiction that are based on whether the contents of the rule's economic, small business, and consumer impact statement were insufficient or inaccurate;
 - ~~2-3.~~ A copy of the rule being appealed; and
 - ~~3-4.~~ The agency's written summary ~~of comments received, the agency's response to those comments, and the final decision of agency on whether to initiate rulemaking~~, prepared and published as required by A.R.S. § 41-1056.01(C).
- D.** The appeal and response letters in subsections (A)(1) and (C) and the memorandum in subsection (C)(1) shall each be printed on one side, not exceed five double-spaced or space-and-a-half pages, and be in a clear and legible typeface from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the person or agency of why a different format is necessary.
- D-E.** Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the affected agency head stating whether three Council members have requested that the appeal be considered at a Council meeting. If the appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.
- E-F.** Within seven calendar days after the Council decides whether one or more of the provisions in A.R.S. § 41-1056.01(A) are met, the Chair shall send a letter to the affected agency head and the person filing the appeal that specifies the deci-

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sion, the reasons for and date of the Council decision, and the action, if any, required by the agency.

ARTICLE 7. EARLY REVIEW PETITION

R1-6-501R1-6-701. Early Review Petition of a Proposed Rule

- A. ~~Under A.R.S. § 41-1052(B), a~~ a person may file an early review petition with Council, in the form of a letter signed by the person filing the petition, after a proposed rule is published in the *Register* but before the rule is filed with Council as a final rule under ~~R1-6-104 R1-6-201 or R1-6-106 R1-6-202.~~
- B. The person filing ~~the a~~ petition shall deliver to the Council office ~~one both of the following: an original and one electronic copy of the petition, a computer disk or CD, or one paper copy.~~ The petition shall contain:
1. The name, mailing address, e-mail address, and fax and telephone numbers of the person filing the petition;
 2. The name of the person being represented by the person filing the petition, if applicable;
 3. An explanation of how the proposed rule violates any of the criteria in A.R.S. § 41-1052(D);
 4. An explanation of why the Council should consider the petition at the proposed rulemaking stage; and
 5. An explanation of how the person would be adversely affected by the proposed rule.
- C. The petition shall be printed on one side, not exceed five double-spaced or space-and-a-half pages and shall be in Arial a clear and legible typeface of not less than from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the person of why a different format is necessary.
- D. The Council shall notify the agency head of the petition by 5:00 p.m. of the business day following Council receipt of the petition. Within 14 days of the date the petition is filed the agency shall file an original and one electronic copy of a response, in the form of a letter signed by the agency head to the petition and deliver to the Council one of the following: one electronic copy, a computer disk or CD, or one paper copy. The agency shall deliver by mail or in person a copy of the response to the Petitioner. The response letter shall contain:
1. An explanation of why the proposed rule does not violate any of the criteria in A.R.S. § 41-1052(D);
 2. If applicable, an explanation of why the person would not be adversely affected by the proposed rule; and
 3. An explanation of why the rulemaking should be permitted to proceed to final rulemaking.
- ~~E. A reply brief is not permitted. Documents and exhibits supporting the petition or response shall only be allowed by a majority vote of the quorum present and upon written request that demonstrates good cause.~~
- ~~F-E.~~ An early review petition filed under this Section does not stay the rulemaking process.
- ~~G-E.~~ The Council shall consider the petition at a scheduled Council meeting as soon as practicable after receipt of the agency's response under subsection (D).
- ~~H-G.~~ Within seven calendar days after the Council considers the petition, the Chair shall send a letter to the affected agency head and the person filing the petition, advising them of the Council's decision, including the reasons for and date of the decision.

**ARTICLE 8. REQUEST OR PETITION REGARDING A FEE ESTABLISHED OR INCREASED
BY EXEMPT RULEMAKING**

R1-6-801. Request for Extension of the Two Year Time Period under A.R.S. § 41-1008(E) for Charging or Receiving a Fee Established or Increased by Exempt Rulemaking

- A. An agency may obtain an extension of the two year time period during which a fee established or increased by exempt rulemaking is effective by filing a written request for an extension under A.R.S. § 41-1008(E). The agency shall file a request, in the form of a letter, signed by the agency head, before expiration of the two year time period established in the statute so that the request may be considered at a regularly scheduled Council meeting. The agency representative filing the request shall deliver to the Council office both an original and one electronic copy of the request. The request shall contain:
1. The name, mailing address, e-mail address, telephone number, and fax number, if any, of the agency and the agency representative filing the request;
 2. The statutory authority under which the request is allowed;
 3. The extended time period sought;
 4. The reasons why the request should be considered and the two year time period extended; and
 5. Other supporting information, such as statistical data or a description of persons likely to be adversely affected if the request is denied, if applicable.
- B. The request shall be printed on one side, not exceed five double-spaced or space-and-a-half pages, and be in a clear and legible typeface from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the agency of why a different format is necessary.
- C. The Council shall schedule consideration of the request for a Council meeting as soon as practicable after receipt of the agency's request.
- D. Within seven calendar days after the Council's decision on the request, the Chair shall provide written notification of the Council's decision to the affected agency, including the reasons for and date of the decision.

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R1-6-802. Petition for an Alternative Expiration Date under A.R.S. § 41-1008(G)

- A.** Under A.R.S. § 41-1008(G), a person regulated by a fee established or increased by exempt rulemaking from and after September 30, 2012, may petition the Council to establish an expiration date that is different than the two year or the extended expiration date under A.R.S. § 41-1008(E), but no earlier than two years after the exempt rule is made. The person shall file a petition, in the form of a letter, signed by the person making the petition, before expiration of the two year time period or the extended time period so that the petition may be considered at a regularly scheduled Council meeting. The person filing the petition shall deliver to the Council office both an original and one electronic copy of the petition. The petition shall contain:
1. The name, mailing address, e-mail address, telephone number, and fax number, if any, of the person filing the petition and any person representing the petitioner's interest, if applicable;
 2. The statutory authority under which petition is allowed;
 3. The expiration date sought;
 4. The reasons why the petition should be heard and a different expiration date selected;
 5. An explanation of how the person is regulated by the fee rule; and
 6. Other supporting information, such as statistical data or a description of persons likely to be adversely affected if the petition is denied, if applicable.
- B.** The petition shall be printed on one side, not exceed five double-spaced or space-and-a-half pages, and be in a clear and legible typeface from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the person of why a different format is necessary.
- C.** The Council shall notify the agency of the petition by 5:00 p.m. of the business day following receipt of the petition. Within 14 days of the date the petition is filed the agency shall file an original and one electronic copy of a response, in the form of a letter signed by the agency head, indicating whether the agency:
1. Agrees with the expiration date proposed by the petitioner, or
 2. Disagrees with the expiration date proposed by the petitioner and providing any reasons for denying the petition.
- D.** The Council shall schedule the petition for a Council meeting as soon as practicable, but no later than 60 days after receipt of the agency's response under subsection (C).
- E.** Within seven calendar days after the Council's decision on the petition, the Chair shall send a letter to the affected agency head and the person filing the petition, advising them of the Council's decision, including the reasons for and date of the decision.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ADMINISTRATION**

Editor's Note: The following two Notices of Final Rulemaking were reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 2764.) The Governor's Office authorized the notice to proceed through the rulemaking process on May 4, 2011.

[R13-141]

PREAMBLE

- | | |
|---|----------------------------------|
| <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action:</u> |
| R9-22-201 | Amend |
| R9-22-204 | Amend |
| R9-22-217 | Amend |
| R9-22-702 | Amend |
| R9-22-703 | Amend |
| R9-22-705 | Amend |
| R9-22-712.09 | Amend |
| R9-22-1205 | Amend |
- 2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**
- Authorizing statute: A.R.S. § 36-2903.01
- Implementing statute: A.R.S. § 36-2907
- 3. The effective date of the rule:**
- October 8, 2013

Notices of Final Rulemaking

4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notice of Proposed Exempt Rulemaking: 17 A.A.R. 1518, August 12, 2011
Notice of Public Information: 17 A.A.R. 1723, August 26, 2011
Notice of Exempt Rulemaking: 17 A.A.R. 1868, September 23, 2011
Notice of Proposed Exempt Rulemaking: 17 A.A.R. 1522, August 12, 2011
Notice of Exempt Rulemaking: 17 A.A.R. 1870, September 23, 2011
Notice of Proposed Exempt Rulemaking: 17 A.A.R. 1290, July 15, 2011
Notice of Exempt Rulemaking: 17 A.A.R. 1707, August 26, 2011
Notice of Proposed Exempt Rulemaking: 18 A.A.R. 1310, June 8, 2012
Notice of Exempt Rulemaking: 18 A.A.R. 1745, July 20, 2012
Notice of Rulemaking Docket Opening: 19 A.A.R. 728, April 12, 2013
Notice of Proposed Rulemaking: 19 A.A.R. 676, April 12, 2013

5. The agency's contact person who can answer questions about the rulemaking:

Name: Mariaelena Ugarte
Address: 701 E. Jefferson St.
Phoenix, AZ 85034
Telephone: (602) 417-4693
Fax: (602) 253-9115
E-mail: AHCCCSrules@azahcccs.gov
Web site: www.azahcccs.gov

6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The Governor's Medicaid Reform Plan, announced on March 15, 2011, proposals to reduce non-federal expenditures for the AHCCCS program by approximately \$500 million during state fiscal year 2012. The AHCCCS Administration promulgated limitations to the following rules:

R9-22-201, R9-22-204, R9-22-702, R9-22-703, R9-22-705, R9-22-712.09 – Limitation of covered inpatient days for adults and changes to current rules regarding limitations on providers charging members for services promulgated on August 26, 2011 with an effective date of October 1, 2011.

R9-22-204 – Limitation of Inpatient Days related to treatment of burns promulgated on July 20, 2012, with an effective date of October 1, 2012.

R9-22-217 – Limitation of Inpatient days applies to the Federal Emergency Services program, therefore, the Administration is updated rule with cross-references to the Inpatient limit rule R9-22-204. Promulgated on September 23, 2011, with an effective date of October 1, 2011.

R9-22-1205 - Limitation for respite services promulgated on September 23, 2011 with an effective date of October 1, 2011.

Due to legislation specified in Laws 2012, Chapter 299, Section 7, the rule-making authority authorized in Laws 2011, Chapter 31, Section 34 (SB 1619) was repealed. Additionally, Laws 2012, Chapter 299, Section 8 stipulated that rules adopted through the previous year's authority (SB1619) would expire December 31, 2013, without specific statutory authority.

After an evaluation of the Agency's overall statutory authority regarding covered services, rates, and eligibility, AHCCCS has determined that it will re-promulgate certain rules implementing "program changes" made pursuant to Laws 2011, Chapter 31, Section 34 by identifying the specific statutory authority for the rules to ensure that the rules continue beyond December 31, 2013, in accordance with Laws 2012, Chapter 299, Section 8.

Therefore, to ensure continuity of the rules previously adopted under Section 34, the AHCCCS Administration is re-promulgating the same rules which became effective October 1, 2011. No changes have been made to the language of the rules.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

Not applicable.

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

9. A summary of the economic, small business, and consumer impact:

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See previous publications listed under item 3 for summaries of economic impacts as applicable.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

No significant changes were made between the proposed rulemaking and the final rulemaking. The publication of Notice of Exempt Rulemaking: 16 A.A.R. 1638, August 27, 2010, and referenced sections has been removed. Although included in the Notice of Proposed rulemaking, these sections have been removed between the proposed and final rulemaking because these rules do not relate to the legislative action that would make these rule expire as originally thought. Legislative action Laws 2012, Chapter 299, Section 8 stipulating that rules adopted through the previous year's authority (SB1619) would expire December 31, 2013, without specific statutory authority. This does not apply to the removed rules.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

No comments were received as of the close of the comment period of May 13, 2013.

12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

No other matters are applicable.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable.

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:

None

14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not applicable.

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ADMINISTRATION**

ARTICLE 2. SCOPE OF SERVICES

Section

- R9-22-201. Scope of Services-related Definitions
- R9-22-204. Inpatient General Hospital Services
- R9-22-217. Services Included in the Federal Emergency Services Program

ARTICLE 7. STANDARDS FOR PAYMENTS

Section

- R9-22-702. Charges to Members
- R9-22-703. Payments by the Administration
- R9-22-705. Payments by Contractors
- R9-22-712.09. Hierarchy For Tier Assignment

ARTICLE 12. BEHAVIORAL HEALTH SERVICES

Section

R9-22-1205. Scope and Coverage of Behavioral Health Services

ARTICLE 2. SCOPE OF SERVICES

R9-22-201. Scope of Services-related Definitions

In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

“Anticipatory guidance” means a person responsible for a child receives information and guidance of what the person should expect of the child's development and how to help the child stay healthy.

“Behavioral health recipient” means a Title XIX or Title XXI acute care member who is eligible for, and is receiving, behavioral health services through ADHS/DBHS.

“Benefit year” means a one year time period of October 1st through September 30th.

“Clinical supervision” means a Clinical Supervisor under 9 A.A.C. 20, Article 2 reviews the skills and knowledge of the individual supervised and provides guidance in improving or developing the skills and knowledge.

“Emergency behavioral health condition for a non-FES member” means a condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect the absence of immediate medical attention to result in:

Placing the health of the person, including mental health, in serious jeopardy;

Serious impairment to bodily functions;

Serious dysfunction of any bodily organ or part; or

Serious physical harm to another person.

“Emergency behavioral health services for a non-FES member” means those behavioral health services provided for the treatment of an emergency behavioral health condition.

“Emergency medical condition for a non-FES member” means treatment for a medical condition, including labor and delivery, that manifests itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

Placing the member's health in serious jeopardy,

Serious impairment to bodily functions, or

Serious dysfunction of any bodily organ or part.

“Emergency medical services for non-FES member” means services provided for the treatment of an emergency medical condition.

“Hearing aid” means an instrument or device designed for, or represented by the supplier as aiding or compensating for impaired or defective human hearing, and includes any parts, attachments, or accessories of the instrument or device.

“Home health services” means services and supplies that are provided by a home health agency that coordinates in-home intermittent services for curative, habilitative care, including home-health aide services, licensed nurse services, and medical supplies, equipment, and appliances.

“Occupational therapy” means medically prescribed treatment provided by or under the supervision of a licensed occupational therapist, to restore or improve an individual's ability to perform tasks required for independent functioning.

“Pharmaceutical service” means medically necessary medications that are prescribed by a physician, practitioner, or dentist under R9-22-209.

“Physical therapy” means treatment services to restore or improve muscle tone, joint mobility, or physical function provided by or under the supervision of a registered physical therapist.

“Post-stabilization services” means covered services related to an emergency medical or behavioral health condition provided after the condition is stabilized.

“Primary care provider services” means healthcare services provided by and within the scope of practice, as defined by law, of a licensed physician, certified nurse practitioner, or licensed physician assistant.

“Psychosocial rehabilitation services” means services that provide education, coaching, and training to address or prevent residual functional deficits and may include services that may assist a member to secure and maintain employment. Psychosocial rehabilitation services may include:

Living skills training,

Cognitive rehabilitation,

Health promotion,

Supported employment, and

Other services that increase social and communication skills to maximize a member's ability to participate in the

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community and function independently.

“RBHA” or “Regional Behavioral Health Authority” means the same as in A.R.S. § 36-3401.

“Residual functional deficit” means a member's inability to return to a previous level of functioning, usually after experiencing a severe psychotic break or state of decompensation.

“Respiratory therapy” means treatment services to restore, maintain, or improve respiratory functions that are provided by, or under the supervision of, a respiratory therapist licensed according to A.R.S. Title 32, Chapter 35.

“Scope of services” means the covered, limited, and excluded services under Articles 2 and 12 of this Chapter.

“Speech therapy” means medically prescribed diagnostic and treatment services provided by or under the supervision of a certified speech therapist.

“Sterilization” means a medically necessary procedure, not for the purpose of family planning, to render an eligible person or member barren in order to:

Prevent the progression of disease, disability, or adverse health conditions; or

Prolong life and promote physical health.

“Substance abuse” means the chronic, habitual, or compulsive use of any chemical matter that, when introduced into the body, is capable of altering human behavior or mental functioning and, with extended use, may cause psychological dependence and impaired mental, social or educational functioning. Nicotine addiction is not considered substance abuse for adults who are 21 years of age or older.

R9-22-204. Inpatient General Hospital Services

A. No Change

1. No Change

- a. No Change
- b. No Change
- c. No Change
- d. No Change
- e. No Change
- f. No Change
- g. No Change

2. No Change

- a. No Change
- b. No Change
- c. No Change
- d. No Change
- e. No Change
- f. No Change
- g. No Change
- h. No Change

B. No Change

1. No Change

- a. No Change
- b. No Change
- c. No Change

2. No Change

3. No Change

- a. No Change
- b. No Change
- c. No Change
- d. No Change
- e. No Change
- f. No Change
- g. No Change
- h. No Change

4. No Change

C. Coverage of in-state and out-of-state inpatient hospital services is limited to 25 days per benefit year for members age 21 and older. The limit applies for all inpatient hospital services with dates of service during the benefit year regardless of whether the member is enrolled in Fee for Service, is enrolled with one or more contractors, or both, during the benefit year.

1. For purposes of calculating the limit:

- a. Inpatient days are counted towards the limit if paid by the Administration or a contractor;**
- b. Inpatient days will be counted toward the limit in the order of the adjudication date of a paid claim;**

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- c. Paid inpatient days are allocated to the benefit year in which the date of service occurs;
- d. Each 24 hours of paid observation services is counted as one inpatient day if the patient is not admitted to the same hospital directly following the observation services.
- e. Observation services, which are directly followed by an inpatient admission to the same hospital are not counted towards the inpatient limit; and
- f. After 25 days of inpatient hospital services have been paid as provided for in this ~~rule~~ Section:
 - i. Outpatient services that are directly followed by an inpatient admission to the same hospital, including observation services, are not covered.
 - ii. Continuous periods of observation services of less than 24 hours that are not directly followed by an inpatient admission to the same hospital are covered.
 - iii. For continuous periods of observation services of 24 hours or more that are not directly followed by an inpatient admission to the same hospital, 23 hours of observations services are covered.
- 2. The following inpatient days are not included in the inpatient hospital limitation described in this ~~rule~~ Section:
 - a. Days reimbursed under specialty contracts between AHCCCS and a transplant facility that are included within the component pricing referred to in the contract;
 - b. Days related to Behavioral Health:
 - i. Inpatient days that qualify for the psychiatric tier under R9-22-712.09 and reimbursed by the Administration or its contractors, or
 - ii. Inpatient days with a primary psychiatric diagnosis code reimbursed by the Administration or its contractors, or
 - iii. Inpatient days paid by the Arizona Department of Health Services Division of Behavioral Health Services or a RBHA or TRBHA.
 - c. Days related to treatment for burns and burn late effects at an American College of Surgeons verified burn center;
 - d. Same Day Admit Discharge services are excluded from the 25 day limit; and
 - e. Subject to approval by CMS, days for which the state claims 100% FFP, such as payments for days provided by IHS or 638 facilities.

R9-22-217. Services Included in the Federal Emergency Services Program

- A. No Change
 - 1. No Change
 - 2. No Change
 - 3. No Change
 - 4. No Change
- B. No Change
 - 1. No Change
 - 2. No Change
 - 3. No Change
- C. No Change
- D. No Change
- E. Services rendered through the Federal Emergency Services Program are subject to all exclusions and limitation on services in this Article including but not limited to the limitations on inpatient hospital services in R9-22-204.

ARTICLE 7. STANDARDS FOR PAYMENTS

R9-22-702. Charges to Members

- A. For purposes of this subsection, the term "member" includes the member's financially responsible representative as described under A.R.S. § 36-2903.01.
- B. Registered providers must accept payment from the Administration or a contractor as payment in full.
- C. Except as provided in subsection (D) a registered provider shall not request or collect payment from, refer to a collection agency, or report to a credit reporting agency an eligible person or a person claiming to be an eligible person.
- D. An AHCCCS registered provider may charge, submit a claim to, or demand or collect payment from a member:
 - 1. To collect the copayment described in R9-22-711;
 - 2. To recover from a member that portion of a payment made by a third party to the member for an AHCCCS covered service if the member has not transferred the payment to the Administration or the contractor as required by the statutory assignment of rights to AHCCCS;
 - 3. To obtain payment from a member for medical expenses incurred during a period when the member intentionally withheld information or intentionally provided inaccurate information pertaining to the member's AHCCCS eligibility or enrollment that caused payment to the provider to be reduced or denied;
 - 4. For a service that is excluded by statute or rule, or provided in an amount that exceeds a limitation in statute or rule, if the member signs a document in advance of receiving the service stating that the member understands the service is

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excluded or is subject to a limit and that the member will be financially responsible for payment for the excluded service or for the services in excess of the limit;

5. When the contractor or the Administration has denied authorization for a service if the member signs a document in advance of receiving the service stating that the member understands that authorization has been denied and that the member will be financially responsible for payment for the service;
 6. For services requested for a member enrolled with a contractor, and rendered by a noncontracting provider under circumstances where the member's contractor is not responsible for payment of "out of network" services under R9-22-705(A), if the member signs a document in advance of receiving the service stating that the member understands the provider is out of network, that the member's contractor is not responsible for payment, and that the member will be financially responsible for payment for the excluded service;
 7. For services rendered to a person eligible for the FESP if the provider submits a claim to the Administration in the reasonable belief that the service is for treatment of an emergency medical condition and the Administration denies the claim because the service does not meet the criteria of R9-22-217; or
 8. If the provider has received verification from the Administration that the person was not an eligible person on the date of service.
- E.** The signature requirement of subsections (D)(4), (D)(5), and (D)(6) do not apply if:
1. The member is unable or incompetent to sign such a document, or
 2. When services are rendered for the purpose of treating an emergency medical condition as defined in R9-22-217 and a delay in providing treatment to obtain a signature would have a significant adverse affect on the member's health.
- F.** Except as provided for in this Section, registered providers shall not bill a member when the provider could have received reimbursement from the Administration or a contractor but for the provider's failure to file a claim in accordance with the requirements of AHCCCS statutes, rules, the provider agreement, or contract, such as, but not limited to, requirements to request and obtain prior authorization, timely filing, and clean claim requirements.

R9-22-703. Payments by the Administration

- A.** No Change
- B.** No Change
1. No Change
 - a. No Change
 - b. No Change
 - c. No Change
 2. No Change
 - a. No Change
 - b. No Change
 3. No Change
 - a. No Change
 - b. No Change
 4. No Change
- C.** No Change
1. No Change
 2. No Change
 - a. No Change
 - b. No Change
 - c. No Change
 3. No Change
 4. No Change
 5. No Change
- D.** No Change
1. No Change
 - a. No Change
 - b. No Change
 - c. No Change
 2. No Change
 3. No Change
- E.** No Change
1. No Change
 2. No Change
 - a. No Change
 - b. No Change
 - c. No Change

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- d. No Change
- e. No Change
- f. No Change
- g. No Change
- h. No Change
- i. No Change
- j. No Change
- k. No Change
- l. No Change
- m. No Change
- n. No Change
- o. No Change

- 3. No Change
 - a. No Change
 - b. No Change
 - c. No Change
 - d. No Change
 - e. No Change
 - f. No Change
 - g. No Change
 - h. No Change
 - i. No Change
 - j. No Change
 - k. No Change

- 4. No Change
 - a. No Change
 - b. No Change
 - c. No Change
 - d. No Change

- 5. No Change

- F.** No Change
 - 1. No Change
 - 2. No Change
 - 3. No Change
 - 4. No Change

- G.** For services subject to limitations or exclusions such as the number of hours, days, or visits covered as described in Article 2 of this Chapter, once the limit is reached the Administration will not reimburse the services.

R9-22-705. Payments by Contractors

- A.** No Change
 - 1. No Change
 - 2. No Change
 - a. No Change
 - b. No Change

- B.** No Change
 - 1. No Change
 - a. No Change
 - b. No Change
 - c. No Change
 - 2. No Change
 - a. No Change
 - b. No Change
 - 3. No Change
 - a. No Change
 - b. No Change

- C.** No Change
 - 1. No Change
 - 2. No Change
 - 3. No Change
 - 4. No Change

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- 5. No Change
- 6. No Change
- D.** No Change
- E.** No Change
 - 1. No Change
 - 2. No Change
- F.** No Change
- G.** No Change
- H.** No Change
 - 1. No Change
 - 2. No Change
 - 3. No Change
 - 4. No Change
 - 5. No Change
 - a. No Change
 - b. No Change
 - c. No Change
 - d. No Change
 - e. No Change
 - f. No Change
 - g. No Change
 - h. No Change
 - i. No Change
 - j. No Change
 - k. No Change
 - l. No Change
 - m. No Change
 - n. No Change
 - o. No Change
 - p. No Change
 - 6. No Change
 - a. No Change
 - b. No Change
 - c. No Change
 - d. No Change
 - e. No Change
 - f. No Change
 - g. No Change
 - h. No Change
 - i. No Change
 - j. No Change
 - k. No Change
 - 7. No Change
 - a. No Change
 - b. No Change
 - c. No Change
 - d. No Change
 - 8. No Change
- I.** No Change
- J.** Payments to hospitals. A contractor shall pay for inpatient hospital admissions and outpatient hospital services rendered on or after March 1, 1993, as follows and as described in A.R.S. § 36-2904:
 - 1. No Change
 - 2. No Change
 - 3. If the hospital bill is paid after 60 days from the date of receipt, the claim is paid at 100 percent of the rate plus a ~~+~~ one percent penalty of the rate for each month or portion of the month following the 60th day of receipt of the bill until date of payment.
- K.** No Change
- L.** For services subject to limitations or exclusions such as the number of hours, days, or visits covered as described in Article 2 of this Chapter, once the limit is reached the Administration will not reimburse the services.

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R9-22-712.09. Hierarchy ~~For~~ for Tier Assignment

TIER	IDENTIFICATION CRITERIA	ALLOWED SPLITS
MATERNITY	A primary diagnosis defined as maternity 640.xx - 643.xx, 644.2x - 676.xx, v22.xx - v24.xx or v27.xx.	None
NICU	Revenue Code of 174 and the provider has a Level II or Level III NICU.	Nursery
ICU	Revenue Codes of 200-204, 207-212, or 219.	Surgery Psychiatric Routine
SURGERY	Surgery is identified by a revenue code of 36x. To qualify in this tier, there must be a valid surgical procedure code that is not on the excluded procedure list.	ICU
PSYCHIATRIC	Psychiatric Revenue Codes of 114, 124, 134, 144, or 154 AND <u>primary</u> Psychiatric Diagnosis = 290.xx - 316.xx. If a routine revenue code is present and all diagnoses codes on the claim are equal to 290.xx - 316.xx, classify as a psychiatric claim.	ICU
NURSERY	Revenue Code of 17x, not equal to 174.	NICU
ROUTINE	Revenue Codes of 100 - 101, 110-113, 116 - 123, 126 - 133, 136 - 143, 146 - 153, 156 - 159, 16x, 206, 213, or 214.	ICU

ARTICLE 12. BEHAVIORAL HEALTH SERVICES

R9-22-1205. Scope and Coverage of Behavioral Health Services

A. Inpatient behavioral health services. The following inpatient services are covered subject to the limitations and exclusions in this Article.

1. No Change
 - a. No Change
 - b. No Change
2. Inpatient service limitations:
 - a. No Change
 - b. No Change
 - i. No Change
 - ii. No Change
 - iii. No Change
 - iv. No Change
 - v. No Change
 - vi. No Change
 - vii. No Change
 - viii. No Change
 - ix. No Change
 - c. A member age 21 through 64 is eligible for behavioral health services provided in a hospital listed in subsection (A)(1)(b) that meets the criteria for an IMD up to 30 days per admission and no more than 60 days per ~~contract~~ benefit year as allowed under the Administration's Section 1115 Waiver with CMS.

B. No Change

1. No Change
2. No Change
3. No Change
 - a. No Change
 - b. No Change
 - i. No Change
 - ii. No Change
 - iii. No Change
 - iv. No Change
 - v. No Change
 - vi. No Change
 - vii. No Change
 - viii. No Change
 - ix. No Change

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4. No Change
 - a. No Change
 - b. No Change
 - c. No Change
- C. Covered Level 1 sub-acute agency services. Services provided in a Level 1 sub-acute agency as defined in A.A.C. R9-20-101 are covered subject to the limitations and exclusions under this Article.
 1. No Change
 2. Covered ~~level~~ Level 1 sub-acute agency services include room and board and treatment services for behavioral health and substance abuse conditions.
 3. No Change
 - a. No Change
 - b. No Change
 - c. No Change
 - d. No Change
 - e. No Change
 - f. No Change
 - g. No Change
 - h. No Change
 - i. No Change
 4. No Change
 - a. No Change
 - b. No Change
 - c. No Change
 5. A member age 21 through 64 is eligible for behavioral health services provided in a ~~level~~ Level 1 sub-acute agency that meets the criteria for an IMD for up to 30 days per admission and no more than 60 days per ~~contract benefit~~ year as allowed under the Administration's Section 1115 Waiver with CMS. These limitations do not apply to a member under age 21 or age 65 or over.
- D. Level 2 behavioral health residential agency services. Services provided in a ~~level~~ Level 2 behavioral health residential agency are covered subject to the limitations and exclusions in this Article.
 1. No Change
 2. No Change
 3. No Change
 - a. No Change
 - b. No Change
 - c. No Change
 - d. No Change
 - e. No Change
 - f. No Change
 - g. No Change
 - h. No Change
 - i. No Change
- E. No Change
 1. No Change
 2. Covered services include all non-prescription drugs as defined in A.R.S. § 32-1901, non-customized medical supplies, and clinical supervision of the ~~level~~ Level 3 behavioral health residential agency staff. Room and board are not covered services.
 3. No Change
 - a. No Change
 - b. No Change
 - c. No Change
 - d. No Change
 - e. No Change
 - f. No Change
 - g. No Change
 - h. No Change
 - i. No Change
- F. No Change
 1. No Change
 2. No Change

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Notice of Rulemaking Docket Opening: 19 A.A.R. 729, April 12, 2013

Notice of Proposed Rulemaking: 19 A.A.R. 697, April 12, 2013

5. The agency's contact person who can answer questions about the rulemaking:

Name: Mariaelena Ugarte
Address: 701 E. Jefferson St.
Phoenix, AZ 85034
Telephone: (602) 417-4693
Fax: (602) 253-9115
E-mail: AHCCCSrules@azahcccs.gov
Web site: www.azahcccs.gov

6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The Governor's Medicaid Reform Plan, announced on March 15, 2011, proposals to reduce non-federal expenditures for the AHCCCS program by approximately \$500 million during state fiscal year 2012. The AHCCCS Administration promulgated limitations to respite services on September 23, 2011, with an effective date of October 1, 2011.

Due to legislation specified in Laws 2012, Chapter 299, Section 7, the rulemaking authority authorized in Laws 2011, Chapter 31, Section 34 (SB 1619) was repealed. Additionally, Laws 2012, Chapter 299, Section 8 stipulated that rules adopted through the previous year's authority (SB1619) would expire December 31, 2013, without specific statutory authority.

After an evaluation of the Agency's overall statutory authority regarding covered services, rates, and eligibility, AHCCCS has determined that it will re-promulgate certain rules implementing "program changes" made pursuant to Laws 2011, Chapter 31, Section 34 by identifying the specific statutory authority for the rules to ensure that the rules continue beyond December 31, 2013, in accordance with Laws 2012, Chapter 299, Section 8.

Therefore, to ensure continuity of the rules previously adopted under Section 34, the AHCCCS Administration is re-promulgating the same rules which became effective October 1, 2011. No changes have been proposed to the language of the rules.

- R9-28-204 and R9-28-205 - Limitation for respite services promulgated on September 23, 2011, with an effective date of October 1, 2011.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

Not applicable.

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

9. A summary of the economic, small business, and consumer impact:

See previous publications listed under item 4 for summaries of economic impacts as applicable. AHCCCS estimates that the limitations on respite hours will reduce total expenditures by approximately \$5.2 million in combined state and federal funds for the state fiscal year 2012.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

No significant changes were made between the proposed rulemaking and the final rulemaking. Technical or grammatical changes have been made such an update to incorporation by reference under R9-28-204(D)(2) of 42 CFR 483, Subpart I and R9-25-204(D)(5) of 42 CFR 441.151.

Although not a verbatim repromulgation of the former exempt rulemaking, these incorporations by reference needed to contain the correct location at which copies of the materials may be obtained to be compliant with statute.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

No comments were received as of the close of the comment period of May 13, 2013.

12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

No other matters are applicable.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general per-

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mit is not used:

Not applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:

None

14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not applicable

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ARIZONA LONG-TERM CARE SYSTEM**

ARTICLE 2. COVERED SERVICES

Section

R9-28-204. Institutional Services

R9-28-205. Home and Community Based Services (HCBS)

ARTICLE 2. COVERED SERVICES

R9-28-204. Institutional Services

A. No Change

1. No Change
2. No Change
3. No Change

B. The Administration and a contractor shall include the following services in the per diem rate for a facility listed in subsection (A):

1. No Change
2. No Change
3. No Change
4. No Change
5. No Change
6. No Change
7. No Change
8. No Change
9. No Change
10. No Change
11. No Change
12. Respite care services not to exceed ~~30 days~~ 600 hours per ~~contract~~ benefit year.

C. No Change

1. No Change
 - a. No Change
 - b. No Change
 - c. No Change
 - d. No Change
 - e. No Change
2. No Change

D. Limitations. The following limitations apply:

1. No Change

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- a. No Change
- b. No Change
2. Each ICF-MR shall meet the standards in A.R.S. § 36-2939(B)(1), and in 42 CFR 483, Subpart I, February 28, 1992, ~~incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments~~ incorporated by reference, on file with the Administration and available from the U.S. Government Printing Office, 732 N. Capitol St., N.W., Washington, D.C. 20401. This incorporation contains no future editions or amendments;
3. Bed hold days as authorized by the Administration or its designee for a fee-for-service provider shall meet the following criteria:
 - a. Short-term hospitalization leave for a member age 21 and over is limited to 12 days per AHCCCS ~~contract year~~ benefit year, and is available if a member is admitted to a hospital for a short stay. After the short-term hospitalization, the member is returned to the institutional facility from which leave is taken, and to the same bed if the level of care required can be provided in that bed; and
 - b. Therapeutic leave for a member age 21 and older is limited to nine days per AHCCCS ~~contract year~~ benefit year. A physician order is required for therapeutic leave from the facility for one or more overnight stays to enhance psycho-social interaction, or as a trial basis for discharge planning. After the therapeutic leave, the member is returned to the same bed within the institutional facility;
 - c. Therapeutic leave and short-term hospitalization leave are limited to any combination of 21 days per ~~contract year~~ benefit year for a member under age 21;
4. No Change
 - a. No Change
 - b. No Change
5. A member age 21 through 64 is eligible for behavioral health services provided in a facility under subsection (A)(3) that has more than 16 beds, for up to 30 days per admission and no more than 60 days per ~~contract year~~ benefit year as allowed under the Administration's Section 1115 Waiver with CMS and except as specified by 42 CFR 441.151, May 22, 2001, ~~incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments~~ incorporated by reference, on file with the Administration and available from the U.S. Government Printing Office, 732 N. Capitol St., N.W., Washington, D.C. 20401. This incorporation contains no future editions or amendments; and
6. No Change
 - a. No Change
 - b. No Change

R9-28-205. Home and Community Based Services (HCBS)

- A. No Change
- B. No Change
- C. Home and community based services include the following:
 1. No Change
 - a. No Change
 - b. No Change
 - c. No Change
 - d. No Change
 - e. No Change
 - f. No Change
 - g. No Change
 2. No Change
 3. No Change
 4. No Change
 5. No Change
 - a. No Change
 - b. No Change
 - c. No Change
 - d. No Change
 - e. No Change
 - f. No Change
 6. No Change
 7. No Change
 8. No Change
 9. Respite care services for no more than ~~720~~ 600 hours per ~~contract~~ benefit year;
 10. Habilitation services including:

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- a. Physical therapy;₁
- b. Occupational therapy;₁
- c. Speech and audiology services;₁
- d. Training in independent living;₁
- e. Special development skills that are unique to the member;₁
- f. Sensory-motor development;₁
- g. Behavior intervention;₁ and
- h. Orientation and mobility training;₁
- 11. Developmentally disabled day care provided in a group setting during a portion of a 24-hour period, including:
 - a. Supervision of activities specified in the member's care plan;₁
 - b. Personal care;₁
 - c. Activities of daily living skills training;₁ and
 - d. Habilitation services;₁ ~~and~~
- 12. No Change